

**WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
RICHMOND METAL FINISHERS, INC.
EPA ID No. VAD000019844**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Richmond Metal Finishers, Inc., for the purpose of resolving certain violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.

6. “Richmond Metal Finishers” means Richmond Metal Finishers, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the Richmond Metal Finishers facility located at 506 Maury Street, in Richmond, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Richmond Metal Finishers owns and operates a metal finishing facility in Richmond, Virginia.
2. On April 9, 2001, DEQ conducted an inspection of Richmond Metal Finishers. Based upon the observations of the inspection, DEQ issued Notice of Violation (NOV) No. 2002-01-PRO-601 on January 17, 2002. The NOV alleged the following violations:
 - a. Accumulation of hazardous waste greater than 180 days (270 days if shipping hazardous waste greater than 200 miles away) 9 VAC 20-60-262 incorporating Code of Federal Regulations (“CFR”) 40 CFR 262.3; 9VAC 20-60-261 incorporating 40 CFR 261.4.
 - b. Violation of pre-transport requirements 9 VAC 20-60-265 incorporating 40 CFR 265.33; 9 VAC 20-60-265 incorporating 40 CFR 265.3; 9 VAC 20-60-265 incorporating 40 CFR 265.37; 9 VAC 20-60-262 incorporating 40 CFR 62.34(d)(5)(ii)&(iii); 9 VAC 20-60-262 incorporating 40 CFR 262.40 and 9 VAC 20-60-262 incorporating 40 CFR 262.34(a)(2) &(3).
 - c. Land disposal restriction violations 9 VAC 20-60-268 incorporating 40 CFR 268.7(a)(2).
 - d. Unpermitted treatment violations 9 VAC 10-60-270 incorporating 40 CFR 270.1(c) and 9 VAC 20-60-262 incorporates 40 CFR 262.34.
 - e. Container management violations

9 VAC 20-60-265 incorporating 40 CFR 265.173(a)&(b) and 40 CFR 265.174.

- f. Release violations
9 VAC-20-60-265 incorporating 40 CFR 265 and 9 VAC-20-60-264 incorporating 40 CFR 264.77.
- 3. DEQ held meetings with Richmond Metal Finishers on February 6, August 20, and December 3, 2002, to discuss the alleged violations cited in the above NOV.
- 4. Richmond Metal Finishers has remedied the violations in sections C.2.a-e.
- 5. Richmond Metal Finishers asserts it did not intend to allegedly violate any environmental requirements and pledges it shall not treat, store, or dispose of hazardous waste at its facility in Richmond, Virginia, nor at any other facility owned, leased, or otherwise controlled by Richmond Metal Finishers within the Commonwealth, except as specifically provided in the VHWMR, unless Richmond Metal Finishers has applied for and been granted a hazardous waste management facility permit under 9 VAC 20-60-970 and -980, or has been granted an emergency hazardous waste management permit under 9 VAC 20-60-1050.A. for such activity.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Richmond Metal Finishers, and Richmond Metal Finishers agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Richmond Metal Finishers, and Richmond Metal Finishers voluntarily agrees, to pay a civil charge of \$3,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the “Treasurer of Virginia”, delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Richmond Metal Finishers shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Tax Identification Number.

SECTION E: Administrative Provisions

- 1. The Board may modify, rewrite, or amend the Order with the consent of Richmond Metal Finishers, for good cause shown by Richmond Metal Finishers, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Richmond Metal Finishers by DEQ on January 17, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order, Richmond Metal Finishers admits the jurisdictional allegations, but does not admit the factual findings, and conclusions of law contained herein.
4. Richmond Metal Finishers consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Richmond Metal Finishers declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein, except that Richmond Metal Finishers reserves its right to a hearing or other administrative proceeding authorized or required by law or to judicial review of any issue of fact or law contained in any subsequent amendments to this Order issued by the Board without the consent of Richmond Metal Finishers. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Richmond Metal Finishers to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Richmond Metal Finishers shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence beyond the control of Richmond Metal Finishers. Richmond Metal Finishers shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Richmond Metal Finishers shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are

occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by either the Director or his designee and Richmond Metal Finishers.
11. After the Department receives payment of the civil charge specified in section D of this Order and Richmond Metal Finishers fulfills all the requirements specified in Appendix A to this Order, Richmond Metal Finishers may petition the Director or the Board to terminate this Order. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Richmond Metal Finishers. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Richmond Metal Finishers from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Richmond Metal Finishers voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Richmond Metal Finishers voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of
_____, 2003, by _____, who is
(name)

_____ of Richmond Metal Finishers, on behalf of the Corporation.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

SCHEDULE OF COMPLIANCE

**RICHMOND METAL FINISHERS, INC.
RICHMOND, VA
EPA ID No. VAD000019844**

Richmond Metal Finishers shall:

1. Within ninety (90) days of the effective date of this Order, Richmond Metal Finishers, Inc. shall submit to the Department a written closure plan for the container storage pad in accordance with the requirements of 9 VAC 20-60-264 incorporating 40 CFR 264.110 through 120 (Subpart G. Closure and Post-Closure), 40 CFR 264.140 through 151 (Subpart H. Financial Assurance), and 40 CFR 264.170 through 179 (Subpart I. Use and Management of Containers).
2. The Department shall approve, or modify and approve, the closure plan described in Paragraph 1 of this Appendix in accordance with the VHWMR. After receipt of written notice of approval of the plan, Richmond Metal Finishers shall complete closure of the Facility in accordance with the schedule in the approved closure plan.
3. Richmond Metal Finishers shall respond to any Notice of Deficiencies issued with respect to the closure plan by the time period provided in the Notice unless Richmond Metal Finishers has both requested and received an extension. If an extension is granted, failure to respond by the end of the extension constitutes failure to respond to the Notice of Deficiency.